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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,422	08/25/2003	James J. Fitzgibbon	79294	2792
22242	7590	10/06/2004	EXAMINER	
FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406				BANGACHON, WILLIAM L
		ART UNIT		PAPER NUMBER
		2635		

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/647,422	FITZGIBBON ET AL.
	Examiner William Bangachon	Art Unit 2635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 August 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-22 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 2-22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 August 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/25/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments have been fully considered but they are not persuasive.

Response to Amendment

2. The amendment filed 12/30/02 in the parent application is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: A recitation of a “**second code**” in claim 1 and “**second access code**” claim 6 provides a two-step security as argued by applicant in paper 9, paragraph bridging pages 5 and 6 of the parent application (SN 09/964,966). However, there is no description of a two-step security in the specification. Also, see Response to Arguments in final Office action in the parent application.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. Claims 2-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. A recitation of a “**second code**” in claim 1 and “**second access code**” claim 6 provides a two-step security as argued by applicant in paper 9, paragraph bridging pages 5 and 6 of the parent application (SN 09/964,966). However, there is no description of a two-step security in the originally filed specification. Or, using a first code then using a second code to access a secured region. There is description of a first code but not for a second code as claimed. Although the DTMF code may be considered a “first code” and the RF code may be considered a “second code”, there is no provision in the specification that would tie the DTMF code the RF code together, to form a two-step security, as claimed and argued by the applicant. Claims 3-5 and 7-22 are dependent claims and therefore rejected for the same reasons.

6. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation “the camera” in page 3, line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the Examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the Examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 6-11 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,629,981 (Nerlikar).

In claim 6, Nerlikar teach of a method of controlling access to a secured region {see whole document}, comprising steps of:

receiving an identification (first access code) from a user; transmitting the first access code to a lock mechanism (first control unit); identifies/compares the first access code with control data stored in the first control unit, to verify/determine whether an access is authorized {col. 6, lines 9-15};

Nerlikar does not disclose expressly **a second access code**. However, these claim limitations would have been obvious in the system of Nerlikar, to one of ordinary skill in the art. In this case, the RFID means transmits the first access code/identification to the reader means (first control unit). Then the reader means communicates a record of the transaction to a server database (second control unit) prior to allowing access to a terminal device wherein the terminal device is an electronic door mechanism (secured region) {col. 6, lines 46-47}. As an example, the first access code is the RFID's identification and the second access code is an authorized location in which transactions are authorized {col. 8, lines 26-36}; or the second access code is an individual's voice signature required for access {col. 10, line 59-col. 11, line 5} or the

second access code includes other biometric features such as fingerprint, eye retina {col. 12, lines 30-37}; or the second access code is an individual's phone number or other identification {col. 18, lines 32-36} for enhancing the security features of the system. Therefore, at the time of the invention, it would have been obvious that the system of Nerlikar discloses a second access code because of the enhanced security features described above, to one of ordinary skill in the art.

In claim 7, the method of claim 6, wherein the first access code is received via a phone network {paragraph bridging cols. 17 and 18}.

In claim 8, the method of claim 6, wherein the first access code is received via the Internet/network segment {col. 7, line 51-col. 8, line 22}.

In claim 9, the method of claim 6, wherein the first access code is received from an RF transmitter {col. 11, lines 20-29}.

In claim 10, the method of claim 6, wherein the first access code is received from an IR transmitter {col. 4, lines 14-31}.

In claims 11, 16-18, the method of claim 6, further comprising updating the control data and access conditions stored in the first control unit; storing a temporary access code in the first control unit to provide a limited access to the secured region;

storing a temporary access code in the first control unit to provide a limited access to the secured region; wherein the temporary access code provides authorization to user limiting entries to the secured region. {col. 7, lines 22-27; col. 8, lines 32-35; paragraph bridging cols. 13 and 14}.

In claims 14 and 15, the method of claim 6, wherein the first access code is a user's biometric identification code transmitted over the Internet to the first control unit {col. 4, lines 3-4 and lines 39-42; col. 7, lines 6-28; col. 10, lines 59-65}.

11. Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,629,981 (Nerlikar) in view of US Patent 6,041,106 (Parsadayan et al).

In claim 12, Nerlikar does not disclose a user's image transmitted over the Internet from a video camera monitoring the secured region to the first control unit for access authorization. However, these claim limitations are conventional, as evidenced by Parsadayan, and would have been obvious in the system of Nerlikar, to one of ordinary skill in the art. Parsadayan teach of an access control apparatus for use with buildings and/or gated properties {see whole document} comprising a video camera for the purpose of recording all persons who use the access control apparatus {Parsadayan, col. 7, lines 34-40}. The systems of Nerlikar and Parsadayan are analogous art because they are from same field of endeavor, access control systems. Obviously, the video camera of Parsadayan is beneficial in the system of Nerlikar in

that, it enhances authentication that is desirable in Nerlikar {Nerlikar, col. 7, lines 22-27}. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to have a camera in the system of Nerlikar because this provides a video recording of all persons who use the access control apparatus, as evidenced by Parsadayan, enhancing authentication features of the system in which Nerlikar desires.

In claim 13, the method of claim 12, wherein the first control unit is a desktop computer as shown in figure 7. See Nerlikar.

12. Claims 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,629,981 (Nerlikar) in view of US Patent 5,875,395 (Holmes).

In claims 19-22, Nerlikar discloses a house/building entrance but does not disclose a garage door. However, these claim limitations would have been obvious in the system of Nerlikar, as evidenced by Holmes, to one of ordinary skill in the art. Nerlikar teach of preventing unauthorized entry in a controlled area {col. 8, lines 23-35; paragraph bridging cols. 13 and 14}. Obviously, a garage door is analogous to a controlled area since only the owners of the garage door are allowed access to the garage door, such as the garage door (34) taught by Holmes, as shown in figure 2 {see Holmes}. The systems of Nerlikar and Holmes are analogous art because they are from same field of endeavor, access control systems. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to have a garage door in

the system of Nerlikar because a garage door is analogous to a controlled area, and/or as evidenced by Holmes.

Conclusion

13. This is a CONTINUATION of applicant's earlier Application No. 09/964,966. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Examiner Contact Information

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Bangachon whose telephone number is 571-272-3065. The examiner can normally be reached on 4/4/10.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 571-272-3068. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9314 for regular and After Final formal communications. The examiner's fax number is 571-273-3065 for informal communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

William L Bangachon
Examiner
Art Unit 2635

September 27, 2004

MICHAEL HORABIK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

